

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES

v.

Noel Hernandez,

Defendant.

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Criminal No.: 04 CR 10319 WGY

MOTION TO WITHDRAW DEFENDANT'S
DISCOVERY MOTION WITHOUT PREJUDICE

NOW COMES the defendant, Noel Hernandez, through counsel, and respectfully moves this Honorable Court to permit the Defendant to withdraw the Defendant's Discovery Motion without prejudice. In support thereof, counsel states the following:

1. On or about February 1, 2004, the Defendant filed the Defendant's Discovery Motion.
2. On February 2, 2005, the undersigned counsel and Assistant United States Attorney William Bloomer discussed the content of the Defendant's Motion and agreed that the issues set forth therein may be resolved without need for Court involvement.
3. The parties have agreed that the Government may treat the Defendant's Discovery Motion as a request for discovery and will respond by February 15, 2005.
4. The parties have further agreed that the Defendant may refile the Defendant's Discovery Motion on or before March 1, 2005, if necessary.
5. The parties do not anticipate that this issue will affect the current trial date of May 9, 2005.

WHEREFORE this Honorable Court is respectfully urged to grant the instant request.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "P. C. Horstmann", with a stylized flourish at the end.

Peter Charles Horstmann, Esquire
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Attorney for Defendant
Noel Hernandez

CERTIFICATE OF SERVICE

I, Peter Charles Horstmann, Esquire, hereby certify that on this 2nd day of February, 2005, a copy of the foregoing DEFENDANT DISCOVERY MOTION was served electronically upon William Bloomer, Assistant United States Attorney, United States Attorneys Office, One Courthouse Way, Suite 9200, Boston, MA 02210.

A handwritten signature in blue ink, appearing to read "P. C. Horstmann", with a stylized flourish at the end.

Peter Charles Horstmann, Esquire